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May 14, 2013

VIA ECF

Honorable Jose L. Linares
United States District Judge
Martin Luther King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: *United States ex rel. Simpson v. Bayer*
Civ. No. 05-3895 (JLL)(JAD)

Dear Judge Linares:

Please accept this letter in lieu of a more formal joint application on behalf of Defendants Bayer Corporation, Bayer Healthcare Pharmaceuticals, Inc., and Bayer Healthcare LLC ("Bayer Defendants"),¹ as well as Relator Laurie Simpson. Pursuant to Local Civil Rule 7.2(b), the parties respectfully request leave to file briefs in connection with Defendants' Motion to Dismiss Relator's Seventh Amended Complaint that exceed the page limits set forth in the Rule.² Additionally, counsel for the Bayer Defendants respectfully request the Court's permission to file the completed briefing package with the Court on Monday, May 20, 2013. Relator consents to that request.

Briefly, Relator's Complaint alleges that the Bayer Defendants violated the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, as well as various state and city false claims acts, and additionally includes claims of workplace retaliation and infliction of emotional distress. Under the circumstances, and despite their best efforts, counsel for both parties were unable to confine their presentations to the 40 pages permitted by Local Rule 7.2(b) for the main briefs, or the 15 pages permitted by the Rule for Defendants' reply. As a result, counsel require additional space to address the multiple theories of relief sought under the laws of the United States and multiple states based upon which Relator seeks to act, and to enable counsel to assist the Court with the rigorous analysis required for such a motion. The briefs are, for the most part, completed and ready to file at approximately 49 pages for Defendants' opening brief, 56 pages for Relator's

¹ This application is brought only by Bayer Corporation, Bayer HealthCare Pharmaceuticals, Inc., and Bayer HealthCare LLC ("Bayer"). Bayer AG, a named defendant, has not yet been served.

² The Bayer Defendants have come before the Court solely for the purpose of the requested extension and not for the purpose of appearing either generally or specially in this jurisdiction, nor having waived any defenses available to them by such appearance.

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opposition brief, and 35 pages for Defendants' reply, which page limits have been agreed upon by both parties. Accordingly, the parties respectfully request leave to file their briefs as over-length to enable a comprehensive presentation of the complex statutory issues raised by the Complaint. *See, e.g., Rosenberg v. JCA Assocs.*, No. 03-0274, 2007 U.S. Dist. LEXIS 23570, at *4 (D.N.J. Mar. 30, 2007) (stating that "relaxation of Rule 7.2(b) is warranted" when "Defendants' motions address a number of complex issues"); *Martino v. Everhome Mortgage*, 639 F. Supp. 2d 484, 497 (D.N.J. 2009) (granting leave to file overlength briefs on motion to dismiss); *Ciba-Geigy Corp. v. Sandoz Ltd.*, No. 92-4491, 1993 U.S. Dist. LEXIS 21046, at *34 (D.N.J. June 18, 1993) (same). Accordingly, we ask that Your Honor grant this request and indicate the same by "So Ordering" this letter. Alternatively, if the Court would prefer the parties to provide a proposed Order with respect to this application, we will, of course, do so forthwith.

In addition, the Bayer Defendants seek the Court's permission to file the complete briefing package on Monday, May 20, 2013. Relator consents to this request. Pursuant to the Court's April 8, 2013 Order, ECF No. 113, the agreement of the parties, and the Court's leave, all of the briefs are expected to be filed simultaneously on Thursday, May 16, 2013, consistent with the now-repealed Local Rule 7.1 Appendix N governing dispositive and complex motions. Although the Bayer Defendants will serve Relator with its reply brief on that date, Defendants request until the following Monday to send the full package of materials so that counsel will have adequate time to copy, prepare, and assemble all of the materials for the Court. Such request is consistent with the Appendix N procedure, which provided for a moving party to serve its papers on its adversary and, "[a]fter the motion has been fully briefed and is ready for submission to the Court, [the entire motion packet] . . . [is] sent to the Clerk' for filing." *Farris v. County of Camden*, 61 F. Supp. 2d 307, 319 n.4 (D.N.J. 1999) (citing L. Civ. R. App. N). Accordingly, the Bayer Defendants respectfully seek the Court's permission to file the finalized packet of briefs on the Monday following the deadline for the parties' submissions.

In sum, the Bayer Defendants and Relator respectfully request that the Court grant the parties leave to file over-length briefs with respect to Defendants' Motion to Dismiss, and the Bayer Defendants request that the Court permit Defendants until Monday, May 20, 2013, to file the complete briefing package with the Court. If Your Honor has any questions or concerns about this matter, please do not hesitate to contact any of us. Thank you for your kind consideration.

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Respectfully submitted,

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